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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement submitted by the International League for Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[19 December 1990]

GE.91-10042/5230a

The situation in Cambodia

1. Commission resolution 1990/9 on "The Situation in Cambodia" reaffirms the inherent right of the people of Cambodia to fundamental freedoms and human rights, in particular the right to self-determination, and emphasizes the role of free and fair elections in giving effect to that right.

2. The new United Nations-sponsored peace plan for Cambodia proposes an ambitious array of United Nations-conducted activities designed to bring about free and fair elections and provide guarantees of human rights. Any comprehensive settlement must address the country's severe human rights problems.

3. War-torn Cambodia experienced the notorious genocidal policies of the Pol Pot Government in the 1970s. Genocidal atrocities associated with the Khmer Rouge rule have been universally condemned as "the policies and practices of a recent past" in numerous Commission resolutions that do not refer specifically to the Khmer Rouge. One to 2 million Cambodians out of a total population of 7 to 8 million died as a result of the genocidal "policies and practices of a recent past". Systematic killings, torture, mass executions and other abuses have been documented as common policies and practices of the Khmer Rouge.

4. Since the Vietnamese invasion of Cambodia, the Hun Sen Government has engaged in severe human rights abuses, including detention of political prisoners without charge or trial, or after unfair trials, torture, or other inhuman treatment. Among methods of torture reported were severe beatings, whippings, electric shocks, burning with hot irons, near suffocation, near drowning and suspension.

5. The past year also brought important pro-human rights changes in the constitution of Cambodia, including abolition of the death penalty, formal prohibitions of torture, and new measures calling for fair trial. But there was no change in the constitutional provision affirming an exclusive role for the Kampuchean People's Revolutionary Party.

6. The Cambodian Government has released hundreds of political prisoners - 534 in June 1990 alone. But new arrests continued in 1990, mainly of persons suspected of opposing the Government, but also of some senior government officials who sought to establish an alternative political party. Detention without charges or trial is common. Despite requests, lists of those arrested and still imprisoned have not been made public.

7. The Khmer Rouge remains a significant military opposition force and still a coalition partner of two non-communist resistance groups. In the territory under its control, it has continued to commit abuses of the laws of war and universal human rights standards.

8. Reportedly, children as young as 13 are forced into military service, and civilian refugees must provide forced assistance in transporting ammunition and supplies across heavily mined areas. If they refuse, they are denied food and medicine. Extrajudicial executions are also reported. In early September, Khmer Rouge army personnel killed 50 persons in train ambushes, reportedly solely because they were employees of the Cambodian Government. The Khmer Rouge imposes severe regulations governing personal behaviour in its refugee camps - requiring prior permission to marry, trade and travel.

Human rights and a Cambodian settlement

9. The plan for a Cambodian settlement now approved by the United Nations calls for the United Nations to take over administration of the Cambodian Government and prepare the way for free and fair elections. The ambitious plan contains proposals for the preparation and conduct of elections, and education about the democratic process.

10. The following policies would help prevent further human rights abuses in Cambodia:

1. All parties to a settlement and the new Government should formally undertake:

(a) Commitments to human rights protections. These should take the form of specific commitments to abide by international human rights treaties, and assurances to permit regular access and scrutiny by international organizations investigating human rights conditions;

(b) Agreements enabling both national and international human rights investigators to conduct human rights investigations, as well as promotional and educational activities, and ensuring protection for those activities;

(c) Establishment of a competent mechanism for complaints of violations of human rights and redress of individual grievances.

2. Persons responsible for past killings and tortures should be removed from positions of power and brought to justice. The future protection of human rights and the establishment of the rule of law in Cambodia necessitates that:

(a) Full investigations ensue;

(b) Persons found to have been involved in atrocious human rights abuses not be permitted to participate in the future Government; and

(c) Those responsible for past abuses be brought to justice.

3. United Nations human rights bodies should play a significant role in the Cambodian situation, both before and after any settlement. The Australian Government has proposed that the Commission keep the Cambodian Government under scrutiny for five years following any settlement. That would be effective only if accompanied by a comprehensive reporting mechanism, such as a special country rapporteur, who has the authority to take urgent action and to bring violations to the attention of bodies that can take serious measures to correct them. In addition:

(a) The United Nations provisional administering authority in Cambodia should have a human rights section, and personnel from the Centre for Human Rights should be included in all preparatory missions;

(b) Major human rights education initiatives should be planned and conducted regarding basic freedoms as defined in the Universal Declaration of Human Rights, the Covenants, and other treaties. Their rapid translation into

Khmer by the United Nations advisory services programme would be a positive measure. Human rights guarantees that mirror the essential protections of the International Covenant on Civil and Political Rights are essential elements that should be incorporated in a new Cambodian constitution.

4. If the human rights protections necessary are to become operable and respected, still stronger measures seem essential. At a minimum, the United Nations Secretary-General should appoint a Special Counsel for Human Rights whose responsibilities should include:

(a) Overseeing and directing human rights informational and education efforts in Cambodia, particularly among judges, lawyers, and law enforcement personnel, as well as laypersons;

(b) Advising persons alleging past, present, and continuing human rights violations on the mechanisms available for obtaining redress; and

(c) Facilitating such persons' effort to secure redress.

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